

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 27
91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR JOHNSON.

Offered April 5, 2001.

Senate Substitute adopted, May 1, 2001.

Taken up for Perfection May 1, 2001. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

0487S.09P

AN ACT

To repeal sections 273.325, 273.327, 273.329, 273.342, 273.352, 273.357, 322.010, 578.012 and 578.023, RSMo 2000, relating to animals, and to enact in lieu thereof eleven new sections relating to the same subject, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 273.325, 273.327, 273.329, 273.342, 273.352, 273.357, 322.010, 578.012 and 578.023, RSMo 2000, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 273.325, 273.327, 273.329, 273.342, 273.353, 273.357, 322.010, 322.140, 322.145, 578.012 and 578.023, to read as follows:

273.325. 1. Sections 273.325 to 273.357 shall be known as the "Animal Care Facilities Act".

2. As used in sections 273.325 to 273.357, the following terms mean:

(1) "Adequate food", the provision, at suitable intervals of not more than twelve hours, unless the dietary requirements of the species require a longer interval, of a quantity of wholesome foodstuff, suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal, all of which foodstuff is served in a safe receptacle, dish, or container;

(2) "Adequate housing", the continuous provision of a sanitary facility, protection from the extremes of weather conditions, proper ventilation, and appropriate space depending on the species

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

of animal, as defined by regulations of the USDA, as revised;

(3) "Adequate water", the provision, either continuously or at intervals suitable to the species, which intervals shall not exceed eight hours, of a supply of potable water in a safe receptacle, dish, or container;

(4) "Animal", any dog or cat, which is being used, or is intended [for use] **to be used**, for research, teaching, testing, breeding, or exhibition purposes, or as a pet;

(5) **"Animal care reserve fund", a separate fund within the state treasury specifically created for sections 273.325 to 273.357 and into which all moneys generated by sections 273.325 to 273.357 are deposited for the sole purpose of administering sections 273.325 to 273.357;**

(6) **"Animal distributor", any person who owns, conducts, or operates an animal distributor premises; this term shall also include persons who buy and sell animals at wholesale, including auctions and flea markets, whether or not an animal distributor premises is maintained;**

(7) **"Animal distributor premises", any premises where dogs or cats, or both, are bought or sold, auctioned, traded, bartered, given, or offered or maintained for sale, at wholesale for resale to another, including auctions and flea markets;**

[(5)] **(8) "Animal shelter", a facility which is used to house or contain animals, which is owned, operated, or maintained by an incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other not-for-profit organization devoted to the welfare, protection, and humane treatment of such animals, or a person whose primary purpose is to act as an animal rescue, to collect and care for unwanted animals or to offer them for adoption but does not include an individual who volunteers to render humane assistance or shelter in his or her home to fewer than ten dogs or cats per year;**

[(6)] **"Animal welfare official", any licensed veterinarian, designated by and under the supervision of the state veterinarian, who administers or assists in the administration of the provisions of sections 273.325 to 273.357, or any appointee of the director, and shall include all deputy state veterinarians;**

(9) "Auction", any person selling any consignment of dogs or cats to a bidder; this shall include any means, procedure or practice in which ownership of a dog or cat is conveyed from one person to another by any type or method of bidding process;

[(7)] **(10) "Boarding kennel", a place or establishment, other than a [pound] municipal shelter or animal shelter, where animals, not owned by the proprietor, are sheltered, fed, and watered in return for a consideration; however, "boarding kennel" shall not include hobby or show breeders who board intact females for a period of time for the sole purpose of breeding such intact females, and shall not include individuals who temporarily, and not in the normal course of business, board or care for animals owned by other individuals;**

[(8)] **(11)** "Commercial breeder", a person, other than a hobby or show breeder, engaged in the business of breeding animals for sale or for exchange in return for a consideration, and who harbors more than three intact females for the primary purpose of breeding animals for sale;

[(9)] **(12)** "Commercial kennel", a kennel which performs grooming or training services for animals, and may or may not render boarding services in return for a consideration;

[(10)] **(13)** "Contract kennel", any facility operated by any person or entity other than the state or any political subdivision of the state, for the purpose of impounding or harboring seized, stray, homeless, abandoned or unwanted animals, on behalf of and pursuant to a contract with the state or any political subdivision;

[(11)] **(14)** "Dealer", any person who is engaged in the business of buying for resale, selling or exchanging animals, as a principal or agent, or who holds himself out to be so engaged or is otherwise classified as a dealer by the USDA as defined by regulations of the USDA;

[(12)] **(15)** "Director", the director of the department of agriculture of the state of Missouri;

(16) "Exhibitor", any person exhibiting any dog or cat to the public for compensation or consideration of any kind, whether directly or indirectly;

[(13)] **(17)** "Hobby or show breeder", a noncommercial breeder who breeds dogs or cats with the primary purpose of exhibiting or showing dogs or cats, improving the breed or selling the dogs or cats, and having no more than ten intact females. Such breeder shall be classified as a hobby or show breeder if such person only sells animals to other breeders or to individuals;

[(14)] **(18)** "Humane euthanasia", the act or practice of putting an animal to death in a humane or instantaneous manner under guidelines and procedures established by rules promulgated by the director;

[(15)] **(19)** "Intact female", with respect to a dog, refers to a female dog between the ages of six months and ten years of age which is capable of being bred; and with respect to a cat, refers to a female cat between the ages of six months and eight years which is capable of being bred;

(20) "Intermediate handler", any person engaged in any business in which he or she receives custody of animals through boarding, ownership or brokering in connection with their transportation in commerce;

(21) "Municipal shelter", a facility operated by the state or any political subdivision of the state for the purpose of impounding or harboring seized, stray, homeless, relinquished, abandoned, or unwanted animals;

[(16)] **(22)** "Pet shop", any facility where animals are bought, sold, exchanged, or offered for retail sale to the general public;

[(17)] "Pound" or "dog pound", a facility operated by the state or any political subdivision of the state for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted animals;]

[(19)] **(23)** "USDA", the United States Department of Agriculture.

273.327. No person shall operate **or permit to be operated on any premises owned, leased, managed or otherwise controlled by such person, an animal distributor premises, an auction,** an animal shelter, [pound or dog pound] **municipal shelter,** boarding kennel, commercial kennel, contract kennel, pet shop, or exhibition facility, other than a limited show or exhibit, or act as a dealer [or], commercial breeder **or intermediate handler,** unless he has obtained a license for such operations from the director. An applicant shall obtain a separate license for each separate physical facility subject to sections 273.325 to 273.357 which is operated by the applicant **and no more than one license shall be issued for each physical facility.** Any person exempt from the licensing requirements of sections 273.325 to 273.357 may voluntarily apply for a license. Application for such license shall be made in the manner provided by the director. The license shall expire annually unless revoked. As provided by rules to be promulgated by the director, the **basic minimum** license fee shall [range from] **be** one hundred [to five hundred] dollars per year **with an additional minimum charge of one dollar per animal sold, traded, bartered, brokered, auctioned, given away, transferred or otherwise disposed of other than by euthanasia or death over the course of a year, with a total combined cap of \$1,000.00 maximum. If the per capita fee cannot be determined because the applicant is operating a new facility, the director shall determine the per capita fee for the first year of the license based on the operating capacity of the facility six months after the license is issued and shall be payable by the applicant at that time. All other per capita fees are to be set by rules promulgated by the director.** [Pounds, dog pounds] **Municipal shelters** and animal shelters shall be exempt from payment of [such fee] **license and per capita fees.** License fees shall be levied for each license issued or renewed on or after January 1, 1993.

273.329. 1. The director may refuse to issue or renew or may suspend or revoke a license on any one or more of the following grounds:

(1) Material and deliberate misstatement in the application for any original license or for any renewal license under sections 273.325 to 273.357;

(2) Disregard or violation of sections 273.325 to 273.357 or of any rules promulgated pursuant thereto;

(3) Conviction of any violation of any state or federal law relating to the disposition or treatment of animals;

(4) Failure to provide adequate food, water, housing or sanitary facilities for animals under the control of an **animal distributor,** animal shelter, boarding kennel, commercial breeder, commercial kennel, contract kennel, dealer, **intermediate handler,** pet shop, [pound] **municipal shelter,** or exhibitor as defined by regulations of the USDA.

2. Operation of an animal shelter, [pound or dog pound] **animal distributor premises, auction, municipal shelter,** boarding kennel, commercial kennel, contract kennel, pet shop, or

exhibition facility, or activity as a commercial breeder, **intermediate handler** or dealer without a valid license shall constitute a class A misdemeanor.

273.342. 1. Persons engaged in breeding dogs and cats who harbor three or less intact females shall be exempt from the provisions of sections 273.325 to 273.357.

2. A hobby or show breeder shall be exempt from the licensure and inspection requirements of sections 273.325 to 273.357. The director shall develop a form for registration of persons who meet the definition of hobby or show breeder, and any such hobby or show breeder shall register annually with the director for the purpose of establishing that such person is a hobby or show breeder, at no cost to said hobby or show breeder.

[273.352. 1. There is hereby established an advisory committee to assist the director in establishing rules under sections 273.350 and 273.352 and to provide ongoing review of the administration of sections 273.325 to 273.357. The members of the advisory committee shall receive no compensation or reimbursement for their expenses incurred in the performance of their duties. The advisory committee shall consist of thirteen persons appointed by the director as follows:

- (1) One person who operates or supervises an animal shelter;
- (2) One person who operates or is employed by a pound or dog pound;
- (3) One person who operates a commercial kennel or a boarding kennel;
- (4) One person who operates a pet shop and who sells both dogs and cats;
- (5) One dealer;
- (6) One person who operates or is employed by an animal humane society or other humane organization;
- (7) One veterinarian licensed pursuant to chapter 340, RSMo;
- (8) One person who is a commercial animal breeder, who breeds both dogs and cats;
- (9) One person representing the Missouri Animal Control Association;
- (10) One person representing professional cat breeders;
- (11) The state veterinarian of the department of agriculture;
- (12) The state public health veterinarian of the department of health;
- (13) One hobby or show breeder.

2. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.]

273.353. 1. There is hereby established the "ACFA Advisory Board" to assist the director in establishing rules pursuant to sections 273.325 to 273.357 and to provide ongoing review of the administration and enforcement of sections 273.325 to 273.357. The members of the advisory board shall receive no compensation or reimbursement for their expenses incurred in the performance of their duties. The

members of the advisory board shall serve for three-year terms but not to exceed two consecutive complete terms. Any members of the advisory committee appointed pursuant to section 273.352 shall be eligible for appointment to the advisory board created pursuant to this section. Vacancies on the advisory board shall be filled for the unexpired term by appointment by the governor with the advice and consent of the senate. The advisory board shall meet at least quarterly and at such other times as a majority of the advisory board members may determine.

2. The advisory board shall consist of twelve persons appointed by the governor, with the advice and consent of the senate, as follows:

- (1) One person who operates or supervises an animal shelter;**
- (2) One person who operates or is employed by a municipal shelter or a representative of the Missouri animal control association;**
- (3) One person who operates a commercial kennel or a boarding kennel;**
- (4) One person who operates a pet shop;**
- (5) One dealer;**
- (6) One person who operates or is employed by an animal humane society;**
- (7) One veterinarian licensed pursuant to chapter 340, RSMo;**
- (8) One person who is a commercial animal breeder, who breeds dogs or cats;**
- (9) The state veterinarian of the department of agriculture;**
- (10) The state public health veterinarian of the department of health;**
- (11) One hobby or show breeder; and**
- (12) One public member who is not associated with the breeding industry or any animal rights group.**

3. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

273.357. All fees collected by the director from licenses issued under sections 273.325 to 273.357 **and all administrative fees, penalties and other moneys collected by the director pursuant to sections 273.325 to 273.357** shall be used to administer the provisions of sections 273.325 to 273.357, and shall be deposited in the state treasury to the credit of the "Animal Care Reserve Fund", which is hereby created. **Such fund may also receive gifts, grants, contributions, appropriations and funds or benefits from any other source or sources. A complete listing of all donors and amounts given to the fund will be available for review upon request.** All moneys deposited in the animal care reserve fund shall be subject to appropriation for the use and benefit of the department of agriculture to administer the provisions of sections 273.325 to 273.357. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the animal care reserve fund shall not be transferred to the general revenue

fund at the end of the biennium. **Any portion of the fund not immediately needed for the purposes authorized shall be invested by the state treasurer as provided by the constitution and laws of this state. All income from such investments shall be retained in the animal care reserve fund.**

322.010. For the purpose of sections 322.010 to [322.080] **322.145**, the following words and following phrases shall be considered and held to mean the following:

(1) "Affected with rabies" [shall mean when manifesting the principal characteristic symptoms of rabies as described in the standard textbooks treating upon the diseases of domestic animals], **infected with the rabies virus as determined by standard laboratory testing;**

(2) "Exposed to rabies" [shall mean], when bitten by, or fought with, or has come in close contact with a dog [showing symptoms of rabies] **or other animal shown to be infected with the rabies virus as determined by standard laboratory testing;**

(3) "Immunized" [shall mean], immunized against rabies at the expense of the owner or custodian by the administration of antirabic virus by a licensed veterinarian; [and]

(4) "Rabies" [shall mean], hydrophobia; **and**

(5) **"Zoonotic disease", a dangerous disease communicable from animals to humans as determined by the department of health.**

322.140. 1. If a county does not adopt rules and regulations pursuant to sections 322.090 to 322.130, whenever an animal bites or otherwise possibly transmits rabies or any zoonotic disease, the incident shall be immediately reported to the county health department. The county health department shall immediately report the incident to the department of health and shall cooperate fully with the department of health in its investigation.

2. Upon receipt of an incident report where an animal bites or otherwise possibly transmits rabies or any zoonotic disease, the department of health shall investigate the incident and shall have discretion to order the animal quarantined, isolated, impounded, tested, immunized or disposed of to prevent and control rabies or zoonotic disease.

3. With regard to exposure to rabies or zoonotic disease the department of health shall, in its investigation and issuance of its order, consider the following:

(1) Prior vaccinations for rabies or zoonotic disease;

(2) The degree of exposure to rabies or zoonotic disease;

(3) The history and prior behavior of the animal prior to exposure;

(4) The availability and effectiveness of human post-exposure immunization for rabies or zoonotic disease;

(5) The willingness of the individual so exposed to submit to post-exposure immunization for rabies or zoonotic disease; and

(6) Any other relevant information.

4. It shall be unlawful for the owner of an animal that bites or otherwise possibly transmits rabies or any zoonotic disease to knowingly fail or refuse to comply with a lawful order of the department of health declaring a quarantine, isolation, impounding, testing, immunization or disposal of an animal. It shall also be unlawful for an owner of an animal that bites or otherwise possibly transmits rabies or any zoonotic disease to sell, give away, transfer, transport to another area or otherwise dispose of an animal until the animal has been released by the department of health. A violation of this subsection shall be a class A misdemeanor.

5. The owner of an animal that bites or otherwise possibly transmits rabies or any zoonotic disease shall be responsible for all costs associated with the department of health's investigation of the incident, including but not limited to:

- (1) The cost to quarantine, isolate, impound, immunize or dispose of the animal;**
- (2) The cost to test the animal for rabies or zoonotic disease;**
- (3) The cost to test the exposed person for rabies or zoonotic disease; and**
- (4) The cost to treat the person exposed to rabies or zoonotic disease.**

6. The department of health shall have authority to promulgate rules and regulations concerning the classification of disease as a zoonotic disease pursuant to subdivision (5) of section 322.010 and concerning the payment of costs associated with the department of health's investigation of the incident pursuant to subsection 5 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

7. Any moneys collected pursuant to subsection 5 of this section for costs associated with the department of health's investigation of the incident shall be collected by the department of health, who shall transmit them to the department of revenue for deposit in the state treasury to the credit of the Missouri public health services fund.

322.145. The owner of an animal that is known to have bitten or otherwise possibly transmitted rabies or any zoonotic disease shall be liable to an injured party for all damages done by the animal.

578.012. 1. A person is guilty of animal abuse when a person:

- (1) Intentionally or purposely kills an animal in any manner not allowed by or expressly**

exempted from the provisions of sections 578.005 to 578.023 and 273.030, RSMo;

(2) Purposely or intentionally causes injury or suffering to an animal; or

(3) Having ownership or custody of an animal knowingly fails to provide adequate care or adequate control.

2. Animal abuse is a class A misdemeanor, unless the defendant has previously plead guilty to or has been found guilty of animal abuse or the suffering involved in subdivision (2) of subsection 1 of this section is the result of torture or mutilation, or both, consciously inflicted while the animal was alive, in which case it is a class D felony.

[3. For purposes of this section, "animal" shall be defined as a mammal.]

578.023. 1. No person may keep any lion, tiger, leopard, ocelot, jaguar, cheetah, margay, mountain lion, Canada lynx, bobcat, jaguarundi, hyena, wolf, **bear, nonhuman primate, [or]** coyote, **[or]** any deadly, dangerous, or poisonous reptile, **or any deadly or dangerous reptile over eight feet long,** in any place other than a properly maintained zoological park, circus, scientific, or educational institution, research laboratory, veterinary hospital, or animal refuge, unless such person has registered such animals with the local law enforcement agency in the county in which the animal is kept.

2. Any person violating the provisions of this section shall be guilty of a class C misdemeanor.

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